

In the High Court of Judicature at Madras

Dated: 07.03.2007

Coram:

The Honourable Mr. Justice P. SATHASIVAM
and
The Honourable Mr. Justice N. PAUL VASANTHAKUMAR

Writ Appeal No.493 of 2003

M/s B.K.Periyamunusamy Gounder & Sons,
Licensee of Bharat Petroleum Corporation
Limited, Retail Outlet, Krishnagiri Town,
Dharmapuri District, rep. by its partner
Mr.M.Bhojaraj Verma

.. Appellant

Vs

1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department, Fort St. George,
Chennai-9.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.Bharat petroleum Corporation Limited,
No.1, Renganathan Gardens,
Off 11th Main Road, Anna Nagar,
Chennai-40.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the
judgment dated 29.01.2003 made in W.P.No.5967 of 2001.

For Appellant : Mr.AR.L.Sundaresan, SC., for
Mrs.AL.Gandhimathi
For Respondents 1&2 : Mr.P.Subramanian, G.A.,
For 3rd respondent : Mr.O.R.Santhanagopalakrishnan

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

Aggrieved by the order of the learned single Judge dated 29.01.2003 made in W.P.No.5967 of 2001, the writ petitioner has filed the present appeal. He filed the writ petition seeking to issue a writ of mandamus directing respondents 1 and 2 not to disturb the possession and business being carried on by the petitioner as a dealer of Bharat Petroleum Products at Krishnagiri Town, Krishnagiri District, unless and until the petitioner is evicted under the due process of law. The learned single Judge, after finding that the lease agreement was entered into only between the first and third respondents and there is no privity of contract between the petitioner and the first respondent, has dismissed the writ petition. Questioning the said order, the petitioner has filed the present appeal.

2. Heard the learned Senior Counsel appearing for the appellant as well as the respondents.

3. During the course of hearing, the learned Senior counsel appearing for the appellant, by drawing our attention to the additional affidavit of the writ petitioner, has submitted that the present situation at Krishnagiri, more particularly, the traffic in and around the place where the petrol bunk is situated has changed a lot and there is substantial reduction in traffic on account of the changed situation. It is also brought to our notice that Krishnagiri District has been formed in 2004 by bifurcating Dharmapuri District. The bus stand which was located near the round turner has been shifted to a permanent location, 3 k.m., away from the town to Londenpet. It is also stated that entire bus traffic and heavy vehicles are diverted through the bye pass roads which have been recently laid. The additional affidavit of the writ petitioner shows that as on date, there is no hindrance to the free flow of traffic on account of the petrol bunk of the writ petitioner-appellant.

4. In view of the stand of the petitioner/appellant, we directed the District Collector to inspect the petrol bunk in question and submit his report. Pursuant to the direction, the District Collector, Krishnagiri, inspected the Petrol Bunk of the petitioner/appellant on 06.03.2007 and furnished necessary information to the Government Advocate, High Court, Chennai, which is as follows.

"3. The Petrol bunk in question is situated in the five road junction point connecting the two National Highways i.e. NH-46 and NH-7 and two more roads leading to Kuppam in Andhra Pradesh and to Salem. The petrol bunk is situated in the heart of the town and many commercial establishments are located adjacent to the present bunk. Street vendors, fruit vendor, retail shops and hotels are located nearby besides local auto stand in the

very proximity of the petrol bunk, hindering free movement of the public.

4. The suggestions of the Superintendent of Police, Dharmapuri and the Divisional Engineer, Highways and Rural Works, Krishnagiri were called for. Both of them have strongly objected the renewal of the lease for the reason that the company installed a retail outlet in the lands leased out of a very important junction connecting two National Highways, Krishnagiri-Ranipet NH-46 with VOC Road NH-47 and two more roads branching from this junction namely Krishnagiri-Kuppam road and Sub Jail road and that as vehicular traffic has increased through the junction and as the retail outlet is just 32 meters from the center, it is a hindrance to the increased volume of traffic. In the meanwhile, the lease period was extended only for one year from 01.04.1985 to 31.03.1986 in the then Collector, Dharmapuri ROC No.28782/85, dated 31.07.1985.

5. On the expiry of the lease period a notice was issued to vacate the lease lands within 15 days from the receipt of the notice by the then Collector, Dharmapuri in ROC No.28782/85/Z3 dated 19.06.2006. All the writ petitions filed both by M/s BKPM & Sons, Dealers of Bharath petroleum Corporation Limited, Chennai were dismissed. The Writ appeal in WAMP 608/2003 in WA No.493/2003 alone is pending disposal in the High Court, Chennai. At this juncture M/s BKPM & Sons have requested the Commissioner of Land Administration for the grant of assignment of the land for the continuance of the retail outlet. The request of M/s BKPM & Sons was rejected by the Commissioner of Land Administration, Chennai vide Roc.G1/29148/2005, dated 20.12.2005.

6. The volume of the traffic through these roads has increased manifold, since the time the lease was given in 1976. Traffic on all five roads is extremely heavy. Near this petrol bunk, within 100 feet distance, there is a big Maidan viz., Cornoation Thidal where a lot of public and political functions are held. If this bunk is evicted, this will ease the traffic congestion during public meetings. Also in view of the congestion, a petrol bunk at this busy junction is a safety hazard. Enough space is not available for vehicles to enter and exit through this bunk."

5. The copy of the said communication was also furnished to the counsel appearing on either side.

6. The inspection on 06.03.2007 and the particulars furnished by the District Collector show that the existence of petrol bunk in the place in question is a hindrance to free movement of the public. Though the learned Senior Counsel appearing for the appellant points out that the position has changed after shifting the bus stand, the District Collector, who is the head of the District Administration, after noting several

aspects including the fact that within a 100", there is a big maiden viz., Cornoation Thidal where a lot of public and political functions are held, expressed that if the bunk is vacated from the place in question, it will ease the traffic congestion during public meetings. In view of the detailed information furnished by the Collector, Krishnagiri, we are unable to accept the stand taken by the appellant. Though this aspect was not pressed into service, in view of the information furnished by the District Collector, that too after proper inspection by himself, we find no merit in the claim of the appellant. Accordingly, the writ appeal fails and the same is dismissed. No costs. The appellant is granted three months time from today for shifting the petrol bunk to some other approved place.

raa

Sd/-

Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government,
Government of Tamil Nadu,
Revenue Department, Fort St. George,
Chennai-9.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3. Bharat Petroliaam Corporation Limited,
No.1, Renganthan Gardens,
11 th Main Road, AnnaNagar,
Chennai - 40.

+1 cc to M/s.AL.Gandhimathi, Sr.No.14372.

+1 cc to Mr.O.R.Santhanakrishnan, Advocate Sr.No.14045.

+1 cc to M/s. Government Pleader, Sr.No.14085.

SKV(CO)

dcp/16.3.07

W.A. No.493 of 2003